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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/710,302

07/01/2004

Heng-Chien CHEN

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09/06/2007

NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION

P.O. BOX 506

MERRIFIELD, VA 22116

EXAMINER

PATEL, CHANDRAHAS B

ART UNIT

PAPER NUMBER

2616

NOTIFICATION DATE

DELIVERY MODE

09/06/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/710,302

Applicant(s)

CHEN, HENG-CHIEN

Examiner

Chandrabhas Patel

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 9-13, 15, 16 and 18 is/are rejected.
- 7) ☒ Claim(s) 5, 8, 14, 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Step 106 mentioned in Paragraph 24 is not shown in drawings. If the result of step 112 is no; then flow goes to step 114 instead of 106 as described in specification. In Paragraph 31 if the result of step 122 is yes then flow goes to step 124; otherwise to step 128. Applicant states opposite. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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3. Claims 1-3, 9-12, 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Benedyk et al. (USPN 7,227,927).

Regarding claim 1, Benedyk teaches a method of maintaining a private branch exchange (PBX) system, the PBX system comprising a first top-level host, the first top-level host being used for serving a plurality of IP-based PBX extensions [Col. 6, lines 18-26], the method comprising: utilizing a first medium-level host for checking if the first top-level host is capable of serving the IP-based PBX extensions [Fig. 5, ST4]; and utilizing the first medium-level host for functioning as a second top-level host to substitute for the first top-level host if the first top-level host is unable to serve the IP- based PBX extensions [Fig. 5, ST5].

Regarding claims 2 and 11, Benedyk teaches utilizing a bottom-level host for checking if the first medium-level host functions as the second top-level host [Fig. 3, 202]; and utilizing the bottom-level host for functioning as a second medium-level host to substitute for the first medium-level host if the first medium-level host functions as the second top-level host [Col. 10, lines 5-12, sub second switchover will make the second call server primary module and module below second call server can serve as backup].

Regarding claims 3, 9, 12 and 18, Benedyk teaches the first top-level host, first medium-level host, and the bottom-level host are connected to the Internet through an IP-sharing [Fig. 2, Call servers are connected to IP network].

Regarding claim 10, Benedyk teaches an apparatus of maintaining a private branch exchange (PBX) system, [Fig. 3, 200] comprising: a first top-level host for serving a plurality of IP-based PBX extensions in the PBX system [Col. 6, lines 18-26]; and a first medium-level host connected to the first top-level host for checking if the first top-level host is capable of serving

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the IP-based PBX extensions [Fig. 5, ST4], utilizing the first medium-level host for functioning as a second top-level host to substitute for the first top-level host if the first top-level host is unable to serve the IP-based PBX extension [Fig. 5, ST5].

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 7, 13, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benedyk et al. (USPN 7,227,927) in view of Kuo et al. (USPN 7,209,435).

Regarding claims 4, 13, Benedyk teaches a method as discussed in rejection of claims 2 and 11.

However, Benedyk does not teach the first medium-level host periodically outputs a survival packet to inform the bottom-level host that the first medium-level host does not function as the second top-level host yet.

Kuo teaches the first medium-level host periodically outputs a survival packet to inform the bottom-level host that the first medium-level host does not function as the second top-level host yet [Col. 9, lines 39-49].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to periodically check if the host is in master or not to prevent network loops and prevent having one host appear as multiple interfaces [Col. 9, lines 31-35].

Regarding claims 7 and 16, Benedyk teaches a method as discussed in rejection of claim 1 and 10.

However, Benedyk does not teach the first top-level host periodically outputs a survival packet to inform the first medium-level host that the first top-level host is capable of serving the IP-based PBX extensions.

Kuo teaches the first top-level host periodically outputs a survival packet to inform the first medium-level host that the first top-level host is capable of serving the IP-based PBX extensions [Col. 9, lines 39-49].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to periodically check if the host is in master or not to prevent network loops and prevent having one host appear as multiple interfaces [Col. 9, lines 31-35].

6. Claims 6, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benedyk et al. (USPN 7,227,927) in view of Burkey (USPN 7,181,581).

Regarding claims 6 and 15, Benedyk teaches a method as discussed in rejection of claims 2 and 11.

However, Benedyk does not teach utilizing the first medium-level host to periodically backup data stored in the first top-level host when the first top-level host is capable of serving the IP-based PBX extensions; and utilizing the second medium-level host to periodically backup data stored in the second top-level host when the first medium-level host functions as the second top-level host.

Burkey teaches utilizing the first medium-level host to periodically backup data stored in the first top-level host when the first top-level host is capable of serving the IP-based PBX extensions; and utilizing the second medium-level host to periodically backup data stored in the second top-level host when the first medium-level host functions as the second top-level host [Col. 4, lines 33-50].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to backup data from primary host to secondary host so that a malfunction of primary host will not make all the data useless [Col. 1, lines 44-46].

Allowable Subject Matter

7. Claims 5, 8, 14, 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chandrahas Patel whose telephone number is 571-270-1211. The examiner can normally be reached on Monday through Thursday 7:30 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CBP


RICKY Q. NGO
SUPERVISORY PATENT EXAMINER